

Case Information

1456316 | PEO VS MARTINEZ, RAYMOND CURTIS

|             |                    |                  |
|-------------|--------------------|------------------|
| Case Number | Court              | Judicial Officer |
| 1456316     | Criminal           | Freeland, John D |
| File Date   | Case Type          | Case Status      |
| 04/23/2013  | Converted Criminal | Closed           |
|             | FEL-MISD-INF       |                  |

Party

Plaintiff  
THE PEOPLE OF THE STATE OF CALIFORNIA

Defendant  
MARTINEZ, RAYMOND CURTIS  
  
DOB  
XX/XX/XXXX

Inactive Attorneys▼  
Lead Attorney  
MEYER, RICHARD,  
Esq.  
Retained  
  
Work Phone  
2095291112

Charge

Charges  
MARTINEZ, RAYMOND CURTIS

|     | Description   | Statute  | Level       | Date       |
|-----|---|----------|-------------|------------|
| 001 | VC23152(a)-M-<br>DRIVING UNDER<br>INFLUENCE OF<br>ALCOHOL/DRUGS             | 23152(a) | Misdemeanor | 03/08/2013 |
| 002 | VC23103.5-M-<br>RECKLESS<br>DRIVING WITH<br>ALCOHOL OR<br>DRUGS<br>INVOLVED | 23103.5  | Misdemeanor | 03/08/2013 |

## Disposition Events

06/21/2013 Plea ▼

|   |  |      |
|---|--|------|
| 1 | VC23103.5-M-RECKLESS DRIVING WITH<br>ALCOHOL OR DRUGS INVOLVED | NOLO |
|---|--|------|

06/21/2013 Disposition ▼

|     |  |                       |
|-----|--|-----------------------|
| 001 | VC23152(a)-M-DRIVING UNDER<br>INFLUENCE OF ALCOHOL/DRUGS | Dism: Other Dismissal |
|-----|--|-----------------------|

06/21/2013 Disposition ▼

|     |  |              |
|-----|--|--------------|
| 002 | VC23103.5-M-RECKLESS DRIVING WITH<br>ALCOHOL OR DRUGS INVOLVED | Nolo by Plea |
|-----|--|--------------|

06/21/2013 Sentenced ▼

|     |  |           |
|-----|--|-----------|
| 001 | VC23152(a)-M-DRIVING UNDER<br>INFLUENCE OF ALCOHOL/DRUGS       | Sentenced |
| 002 | VC23103.5-M-RECKLESS DRIVING WITH<br>ALCOHOL OR DRUGS INVOLVED | Sentenced |

## Probation

Type: Informal Probation

Start Date: 06/21/2013

Term: 36 Months

Status

| Status | Date | Comment |
|--------|------|---------|
|--------|------|---------|

Active 06/21/2013

Comment: Informal: 36 Month(s) Fine: \$800 CAF: \$30 SEC: \$100 RS1: \$140  
Fine Credit: \$100 EMF: \$4 Defendant Represented by Counsel : Y Total:  
\$974.0: Enroll and complete the Drinking Driver Program : Level 1

04/22/2016 Amended Sentenced ▼

Amend Reason

PC1203.4: Conv Set Aside &amp; Dism

|     |  |           |
|-----|--|-----------|
| 001 | VC23152(a)-M-DRIVING UNDER<br>INFLUENCE OF ALCOHOL/DRUGS | Sentenced |
|-----|--|-----------|

|     |  |           |
|-----|--|-----------|
| 002 | VC23103.5-M-RECKLESS DRIVING WITH<br>ALCOHOL OR DRUGS INVOLVED | Sentenced |
|-----|--|-----------|

### Converted Disposition

Subsequent Code: Conv Set Aside & Dism per 1203.4 PC-71

## Events and Hearings

03/11/2013 Own Recognizance

04/23/2013 Complaint

05/08/2013 Arraignment Hearing ▾

Original Type  
Arrestment Hearing

Hearing Time  
08:30 AM

Result  
Completed Hearing

05/08/2013 Probation Order &amp; Terms Form Print

05/29/2013 Pretrial ▼

Original Type  
Pretrial

Hearing Time  
8:30 AM

Result  
Continued Party's Motion

06/21/2013 Pretrial ▼

Original Type  
Pretrial

Hearing Time  
8:30 AM

Result  
Pled

06/21/2013 Case Disposed

06/21/2013 Probation Sentence Terminated

08/15/2013 Electronic Disposition Reporting

03/22/2016 Reopen- Case Status Only

03/22/2016 Petition

04/22/2016 Law &amp; Motion ▼

Original Type  
Law & Motion

5/14/2018

Details

Hearing Time

8:30 AM

...

Granted

04/22/2016 Conviction Set Aside and Dismissed

04/22/2016 Electronic Disposition Reporting

04/22/2017 Purge Pending

## Financial

No financial information exists for this case.

STANISLAUS COUNTY SUPERIOR COURT  
STATE OF CALIFORNIA

FILED

2013 APR 23 AM 9:10

CLERK OF THE SUPERIOR COURT  
COUNTY OF STANISLAUS

*[Signature]*  
DEPUTY

THE PEOPLE OF THE STATE OF CALIFORNIA, )

vs. )

RAYMOND CURTIS MARTINEZ )

(DOB: 6/28/83) )

(JAIL CITE) Booking No. 1322085 )

DEFENDANT(S) )

No. 1456316 )

COMPLAINT -- CRIMINAL

MPD MP13020496

State of California )  
County of Stanislaus) ss.

On April 23, 2013, L. Serrano, City of Modesto Police Department, complains and alleges, upon information and belief, that said defendant did commit the following crime in the County of Stanislaus, State of California.

COUNT I: On or about March 8, 2013, defendant(s) did commit a misdemeanor, DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL, violation of Section 23152(a) of the California Vehicle Code, in that the defendant(s) did willfully and unlawfully drive a vehicle while under the influence of an alcoholic beverage.

COUNT II: On or about March 8, 2013, defendant did commit a misdemeanor, DRIVING WITH BLOOD ALCOHOL LEVEL OF 0.08% OR ABOVE, violation of Section 23152(b) of the California Vehicle Code, in that the defendant did willfully and unlawfully drive a vehicle while having 0.08 percent or more, to wit, .09/.09 % by weight, of alcohol in his blood.

SKU/lsp

All of which is contrary to law in such cases made and provided, and against the peace and dignity of the People of the State of California.

Said Complaint therefore prays that a warrant be issued for the arrest of said defendant(s) and that said defendant(s) be dealt with according to law.

I certify under penalty of perjury, at Modesto, California, that the foregoing is true and correct.

Dated: 4.23.13

L. Serrano  
Complainant



1 POINTS & AUTHORITIES

2 Mr. Martinez submits the following points and authorities in support of the motion to  
3 terminate probation early:

4 **I. THE COURT HAS THE POWER TO TERMINATE PROBATION AT ANYTIME**  
5 **DURING THE PROBATIONARY TERM:**

6 Penal Code § 1203.3(a) provides in part:

7 The court may at any time when the ends of justice will be subserved thereby, and when the  
8 good conduct and reform of the person so held on probation shall warrant it, terminate the  
9 period of probation, and discharge the person so held.

10 The trial court is therefore authorized, during the time of probation, upon proper showing, to  
11 modify or terminate probation. People v. Cookson, 54 Cal. 3d 1091, 1098-1099 (1991); People v.  
12 Butler, 105 Cal. App. 3d 585 (1980); People v. Marin, 147 Cal. App. 2d 625, 627 (1957).

13 Here, Mr. Martinez was convicted pursuant VC 23103.5 on June 21, 2013. He has  
14 successfully completed over 32 months of his 36 month probationary term at this time (probation  
15 naturally terminates on 6/21/2016). Mr. Martinez has completed all of the requirements of his  
16 sentence, and is simply waiting for probation to terminate at this time.

17 Mr. Martinez deeply prides himself on being a positive and productive member of society.  
18 He served our country in the United States Navy from 2001-2006, serving two tours of duty in the  
19 Iraq and Afghanistan conflicts. Shortly after his arrest in this case, Mr. Martinez obtained his  
20 Bachelors of Science in Sports Medicine / Athletic Training from the University of the Pacific. He  
21 continued his educational pursuits and while he was on probation in this case he obtained a Masters  
22 of Human Resource Development, with an emphasis in Athletic Leadership, from Clemson  
23 University. He is currently employed as an intern athletic trainer with the San Francisco 49ers, with  
24 intern being the operative word. Mr. Martinez is currently paid very little in his intern position, and  
25 he is seeking out non-intern full-time athletic trainers positions with sporting organizations around  
26 the country.

27 Mr. Martinez is extremely remorseful for his behavior and he fully understands the gravity of  
28 his actions. At the time of the conviction Mr. Martinez made the poor choice to go out and celebrate



1 with two fellow military friends he served with in Iraq that were on leave. His home was a couple  
2 blocks from the restaurant they patronized, and his BAC was barely over the legal limit. Thus, his  
3 behavior was not egregious, but it was admittedly irresponsible.

4 Mr. Martinez is seeking early termination of probation, and dismissal of the underlying  
5 misdemeanor conviction, for several reasons.

6 FIRST, and most importantly, Mr. Martinez would like to be able to fully explore his  
7 employment options with NCAA athletic programs around the country. Unfortunately, a vast  
8 majority of NCAA programs require a criminal background check as part of their routine hiring  
9 process today, necessarily putting Mr. Martinez at a severe disadvantage in this competitive field.  
10 Mr. Martinez is willing, and able, to work. He simply desires to have the ability to secure  
11 employment, to work hard every day, and to financially provide for himself. He has spent six years  
12 pursuing his educational goals, and he is now fearful that this outlier mistake in his life may derail  
13 his career aspirations.

14 SECOND, Mr. Martinez has sizable student loans that he is obligated to pay back.  
15 Unfortunately, his current intern position with the San Francisco 49ers does not pay enough for him  
16 to pay his student loans at this time. Thus, it is critically important that Mr. Martinez secure  
17 employment in his chosen field so that he is able to start his career and pay back his mounting  
18 student loan obligation.

19 THIRD, Mr. Martinez is horribly embarrassed about this mistake in his life, and he deeply  
20 desires to put it behind him for good. He has learned a great deal from the experience, and he will  
21 continue to use his story as one of caution moving forward in his life. Mr. Martinez simply wants to  
22 move forward with his life wherein he is no longer defined professionally by this blemish on his  
23 record, allowing him to financially provide for himself. Mr. Martinez is a good kid that made a  
24 stupid mistake. He has paid his dues, completed all of his sentence requirements, and is ready to  
25 move forward, progress in his career and fully contribute to society at this time.

1 CONCLUSION

2 The only purpose probation serves at this time is to prevent Mr. Martinez from securing full-  
3 time employment in his chosen field, which he desperately needs. Mr. Martinez does not need a  
4 probationary term to remind him to be a law-abiding citizen, as he will never make a mistake like  
5 this again. Mr. Martinez is spending what little money he has to attempt to get his probationary term  
6 terminated, which signifies the importance and urgency of having this done now, as Mr. Martinez  
7 would not have spent the money and time seeking early termination if it was not critically important  
8 to his life at this pivotal juncture. Mr. Martinez has paid his dues, completed his sentence  
9 requirements, and is not at risk for offending again. He has never had another arrest or conviction in  
10 his life. It should also be noted that Mr. Martinez is not attempting to "game" the system, rather he is  
11 simply trying to clean up his record so that he is able to find employment. His situation is an  
12 example of where the legal system has worked. This has been an extremely traumatic experience for  
13 him, and he will never put himself in a similar situation again in his life. Furthermore, dismissal  
14 under PC 1203.4 does not remove the criminal matter from his permanent record, and it can still be  
15 used as a prior if Mr. Martinez were to ever violate the law again.

16 Section 1203.4 does not, properly speaking, "expunge" the prior conviction. The statute does  
17 not purport to render the conviction a legal nullity. Instead it provides that, except as  
18 elsewhere stated, the Defendant is "released from all penalties and disabilities resulting from  
19 the offense." The limitations on this relief are numerous and substantial, including other  
statutes declaring that an order under section 1203.4 is ineffectual to avoid specified  
consequences of a prior conviction.

20 (People v. Frawley (2000) 82 Cal.App.4th 784, 791; please also see People v. Vasquez (2001) 25  
21 Cal.4th 1225, 1230 and People v. Mgebrov, supra, 166 Cal.App.4th at p. 584.). Mr. Martinez simply  
22 wishes to work hard every day, to progress with his career, and to move forward with his life.

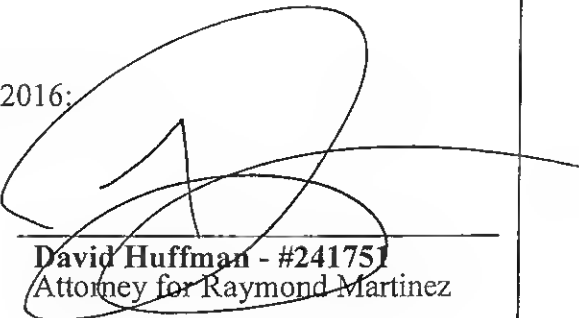
23  
24 /////

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26 /////

1 Terminating Mr. Martinez's probationary term at this time is in the interest of justice for the above  
2 stated reasons.

3  
4 RESPECTFULLY SUBMITTED this 29th day of February, 2016;

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6   
7 **David Huffman - #241751**  
8 Attorney for Raymond Martinez  
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Your Honor,

I am writing this letter in regards to my arrest in March of 2013 in hopes that my words here will help aid in the expungement of the charges due to said arrest. At the time of my arrest, I was enrolled at the University of the Pacific pursuing my Bachelor's degree in Sports Medicine. It was a weekend, where two of my close friends I had served with in the Navy, were back in town fresh off of a deployment. I had taken the weekend off of school, I normally worked weekends due to working with sports, to meet with my friends and tell old war stories from our deployments together. While doing so we decided to have a few drinks. Consuming alcohol was a rare occasion after I got out of the Navy due to seeing too many of my fellow Sailors and Marines drink themselves into a grave but, nonetheless I felt this was an occasion to do so. This was also a time where I was graduating college in a few short months, studying for finals as well as taking the Board of Certification exam to become a Certified Athletic Trainer, so I cut our visit short and cut myself off to return home a few blocks away. I chose to get in my car and drive those few short blocks. Making that decision is one that I have regretted since the day it happened, not because I got caught but because it was the wrong thing to do and out of my character. I am a man that takes responsibility for every decision I make and I accept that what I did was wrong and I have learned from it every day, even being an advocate of sober driving and/or alternate methods of getting home for those around me.

Since that time, I indeed graduated from the University of the Pacific with my Bachelors of Science in Sports Medicine and Athletic Training and passed the Board of Certification in June of 2013. In February 2013, prior to the arrest, I accepted a position as a Graduate Assistant at Clemson University in South Carolina and due to the arrest this was put into jeopardy. Through no fault but my own, the next step to my future was almost taken away and this weighed heavily upon me. I was able to continue on to Clemson but was hindered in my capabilities when it came to duties that had to do with driving athletes to their doctor's appointments and/or surgeries following an injury. Once my driving suspension was complete I was able to do such duties but it was after great embarrassment; an embarrassment I intend not to put myself through again.

Overall my time at Clemson was a success, my first year I worked with the football team which ended the season with an Orange Bowl win in Miami against Ohio State. My second year I helped the men's tennis team do well during tournament season, finishing in the top teams in many tournaments and winning the Clay Invitational in Orlando Florida. After my two years of working with the sports teams at Clemson, all while working on my schooling, I graduated with my Master's Degree in Human Resource Development with an emphasis in Athletic Leadership. I left with a breadth of professional experience and knowledge and came back to California to pursue my dream of working in the National Football League.

After graduation I became a year-long Athletic Training Intern for the San Francisco 49ers, which is where I am now. Being an intern I am not an actual employee of the NFL therefore did not fall under their strict personal conduct rules. If this were not the case, I could not have come and been a part of an NFL team. With the season complete, I am now looking to take my experience and obtain a permanent position in the NCAA and I fear my mistake, almost three years ago, will potentially derail

## Supporting Documents

that ultimate goal. I say this because, outside of California, every state requires a licensure to go along with the certification and, as each state may slightly differ, alcohol related incidences are usually non-hirable offenses. I am currently in the process with Duke University to become a staff member for their football team. I would like for this mistake to not hold me back from making a living doing what I love and have spent so much time and energy obtaining the school and experience to do so.

I, one hundred percent, know that the choice I made to drive that night was the wrong choice and, as mentioned above, I am an advocate for alternate methods of travel when someone, including myself, chooses to drink. I have been known to say that a \$300 cab ride is a lot cheaper than an arrest for driving while impaired and a great deal less embarrassing and/or life altering. As a man, I take a great deal of pride in my service to this country and I take that pride with me in any and all of my endeavors in life and in work. As ignominious a situation this has been for me, I take great pride in knowing that I have learned from it. One does not acquire wisdom without making mistakes; this is one mistake that I am wise enough to learn from and never repeat.

Very Respectfully,



Raymond C. Martinez

Date: 2.18.16

|   |   |
|---|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):<br><b>DAVID HUFFMAN, 241751</b><br><b>30021 TOMAS ST, STE 300</b><br><b>RANCHO SANTA MARGARITA, CA 92688</b><br><br>TELEPHONE NO.: (949) 864-6075      FAX NO.: (877) 744-8312<br>E-MAIL ADDRESS: Info@FreshStartLawCenter.com<br>ATTORNEY FOR (Name): Raymond Martinez | <b>FILED</b><br><b>FOR COURT USE ONLY</b><br><b>2016 MAR 22 AM 9:35</b><br>CLERK OF THE SUPERIOR COURT<br>COUNTY OF STANISLAUS<br>BY <i>Janah Woods</i><br>DEPUTY |
| PEOPLE OF THE STATE OF CALIFORNIA<br>v.<br>DEFENDANT: Raymond Martinez  | DATE OF BIRTH: 06/28/1983   |
| <b>PETITION FOR DISMISSAL</b><br>(Pen. Code, §§ 17(b), 1203.4, 1203.4a, 1203.41)  |   |
| CASE NUMBER:<br><b>1456316</b>  |   |
| FOR COURT USE ONLY<br>Date:<br>Time:<br>Department:   |   |

1. On (date): 6/21/2013, the petitioner (the defendant in the above-entitled criminal action) was convicted of a violation of the following:

| Offense<br>(Specify each offense in the case noted above.) | Code | Section | Type of offense: (Felony;<br>Misdemeanor; Infraction) | Eligible for reduction to<br>misdemeanor under<br>Penal Code § 17(b) (Yes<br>or No) |
|--|------|---------|---|---|
| "Wet" Reckless Driving                                     | VC   | 23103.5 | Misdemeanor   | n/a   |
|  |      |         |   |   |
|  |      |         |   |   |
|  |      |         |   |   |
|  |      |         |   |   |
|  |      |         |   |   |

If additional space is needed for listing offenses, use Attachment to Judicial Council Form (form MC-025).

2. ☒ **Felony or misdemeanor with probation granted (Pen. Code, § 1203.4)**

Probation was granted on the terms and conditions set forth in the docket of the above-entitled court; the petitioner is not serving a sentence for any offense, nor on probation for any offense, nor under charge of commission of any crime, and the petitioner (check all that apply):

- a. ☐ has fulfilled the conditions of probation for the entire period thereof;
- b. ☒ has been discharged from probation prior to the termination of the period thereof;
- c. ☐ should be granted relief in the interests of justice. (Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)

3. ☐ **Misdemeanor or infraction with sentence other than probation (Pen. Code, § 1203.4a)**

Probation was not granted; more than one year has elapsed since the date of pronouncement of judgment. The petitioner has complied with the sentence of the court and is not serving a sentence for any offense or under charge of commission of any crime; and the petitioner (check one):

- a. ☐ has lived an honest and upright life since pronouncement of judgment and conformed to and obeyed the laws of the land; or
- b. ☐ should be granted relief in the interests of justice. (Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:  
Raymond Martinez

CASE NUMBER:  
1456316

4. ☐ **Felony county jail sentence under Penal Code section 1170(h)(5) (Pen. Code, § 1203.41)**

The petitioner is not under supervision under Penal Code section 1170(h)(5)(B) and is not serving a sentence for, on probation for, or charged with the commission of any offense, and should be granted relief in the interests of justice, and (check one:)

- a. ☐ more than one year has elapsed since petitioner completed the felony county jail sentence **with** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(B); or
- b. ☐ more than two years have elapsed since petitioner completed the felony county jail sentence **without** a period of mandatory supervision imposed under Penal Code section 1170(h)(5)(A).

(Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)

Petitioner requests that the eligible felony offenses listed above be reduced to misdemeanors under Penal Code section 17(b).

Petitioner requests that he/she be permitted to withdraw the plea of guilty, or that the verdict or finding of guilt be set aside and a plea of not guilty be entered and the court dismiss this action under section ☒ 1203.4, ☐ 1203.4a, or ☐ 1203.41 of the Penal Code.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on: 2/29/2016

(DATE)

(SIGNATURE OF PETITIONER OR ATTORNEY)

30021 TOMAS ST, STE 300  
(ADDRESS, PETITIONER)

RANCHO SANTA MARGARITA CA 92688  
(CITY) (STATE) (ZIP CODE)

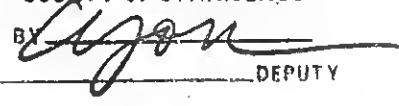
1 BIRGIT A. FLADAGER  
2 Stanislaus County District Attorney  
3 832 12<sup>th</sup> Street, Suite 300  
4 Modesto, CA 95354  
5 Telephone: (209) 525-5550

6 Attorney for the Plaintiff

FILED

2016 APR 14 AM 11:08

CLERK OF THE SUPERIOR COURT  
COUNTY OF STANISLAUS

BY  DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF STANISLAUS

10 -----o0o-----

11 THE PEOPLE OF THE STATE OF CALIFORNIA, ) CASE NO.: 1456316

12 Plaintiff,

13 vs.

14 RAYMOND CURTIS MARTINEZ,

15 Defendant.

) PEOPLE'S OPPOSITION TO  
DEFENDANT'S REQUEST TO  
OBTAIN RELIEF PURSUANT  
TO PENAL CODE SECTION  
1203.4

) Date: April 22, 2016  
Time: 8:30 a.m.  
Dent: 4

17 -----o0o-----

18 Defendant Martinez has brought a motion to obtain relief pursuant to Penal Code  
19 §1203.4. A conviction for violating Vehicle Code §23103.5 is barred from expungement relief  
20 by Penal Code §1203.4(c), absent a court finding that expungement serves the "interests of  
21 justice."

22 SUMMARY OF THE CASE

23 On June 21, 2013, Mr. Martinez was convicted of violating Vehicle Code §23103.5(a),  
24 Reckless Driving Plea in Satisfaction of a Driving Under the Influence Charge, a misdemeanor.  
25 He was ordered to serve one day in jail, placed on three years of informal probation, ordered to  
26 pay fines, fees, restitution, and ordered to attend Level I alcohol rehabilitation classes.



1 Mr. Martinez's probation will not terminate until June 20, 2016. Revenue Recovery  
2 reports that Mr. Martinez has paid all fines, fees, and restitution. He completed his Level I  
3 alcohol rehabilitation classes on July 26, 2013.

## 4 LAW AND ARGUMENT

### 5 I.

#### 6 **THE DEFENDANT'S REQUEST FOR EARLY TERMINATION OF PROBATION 7 SHOULD BE DENIED**

8 Penal Code §1203.3, subdivision (a) provides the authority for the court to modify its  
9 order. This section states, in relevant part:

10 The court shall have authority at any time during the term of probation to revoke,  
11 modify, or change its order . . . The court may at any time when the ends of  
12 justice will be subserved thereby, and when the good conduct and reform of the  
person so held on probation shall warrant it, terminate the period of probation,  
and discharge the person so held. (Emphasis added).

13 The People recognize that relief under Penal Code §1203.3 is not a defendant's "right,"  
14 but rather is extraordinary relief granted at sole discretion of the Court. The People oppose  
15 terminating probation, because of the serious nature of Mr. Martinez's offense. Mr. Martinez  
16 placed the public at risk by choosing to drive under the influence. The interests of justice would  
17 not be served by dismissing it at this time. For these reasons, Mr. Martinez's request for early  
18 termination of probation under Penal Code §1203.3 should be denied.

### 19 II.

#### 20 **PENAL CODE §1203.4(C)(1) EXPLICITLY DENIES RELIEF TO PERSONS 21 CONVICTED OF VIOLATING VEHICLE CODE § 23103.5**

22 Penal Code §1203.4 states, in relevant part:

23 In any case in which a defendant has fulfilled the conditions of probation for  
24 the entire period of probation, or has been discharged prior to the termination of  
25 the period of probation, or in any other case in which a court, in its discretion  
26 and the interests of justice, determines that a defendant should be granted the  
27 relief available under this section, the defendant shall, at any time after the  
28 termination of the period of probation, if he or she is not then serving a sentence  
for any offense, on probation for any offense, or charged with the commission of  
any offense, be permitted by the court to withdraw his or her plea of guilty or plea  
of nolo contendere and enter a plea of not guilty; or, if he or she has been  
convicted after a plea of not guilty, the court shall set aside the verdict of guilty;  
and, in either case, the court shall thereupon dismiss the accusations or information  
against the defendant. . . (Emphasis added).

1 (c)(1). . . subdivision (a) does not apply to a person who receives a notice to  
2 appear or is otherwise charged with a violation of an offense described in. . .  
3 Section 12810 of the Vehicle Code. (Emphasis added).

4 As stated in §1203.4(c)(1), relief does not apply to a defendant who has been charged  
5 with an offense under Vehicle Code §12810. The offenses described in Vehicle Code §12810  
6 include Vehicle Code §23103.5. Therefore, per Penal Code §1203.4(c)(1), any person convicted  
7 of violating Vehicle Code §23103.5 is ineligible for relief under Penal Code §1203.4(a)(1).

8 However, under §1203.4(c)(2), the court does have discretion to grant relief “if the  
9 interests of justice” are so served. The “interests of justice” involve an exercise of the Court’s  
10 discretion that must be free from impartiality and not impacted by sympathy or prejudice. It  
11 must be based on sound legal principles and grounded in reasoned judgment. (*People v.*  
12 *Superior Court of Los Angeles County (Alvarez)*(1997), 14 Cal.4th 968, 977.)

13 The serious nature of Mr. Martinez’s offense should not be overlooked. Driving under  
14 the influence is a very dangerous crime that places not just the offender, but other people at risk.  
15 For this reason a dismissal would not further the interests of justice.

### 16 III.

#### 17 IF THE COURT EXPUNGES THIS MATTER, DEFENDANT’S VIOLATION WILL 18 REMAIN A PRIOR SHOULD HE REOFFEND

19 The People caution Defendant that his DUI conviction will remain a priorable offense  
20 for the 10-year statutory period described in Cal. Vehicle Code section 23622, notwithstanding  
21 an expungement. Further, Dismissal will not make conviction records unavailable to the public.  
22 (*People v. Field* (1995) 31 Cal.App.4<sup>th</sup> 1778, 1787.) State licensing agencies are not prevented  
23 from using the conviction in making licensing decisions. (See, e.g., Business & Professions  
24 Code section 475, 480, 490; Education Code section 44009; *Adams v. County of Sacramento*  
25 (1991) 235 Cal.App.3d 872, 885 (denying peace officer status); *Department of Children and*  
26 *Family Services v. Superior Court (Cheryl M.)* (2003) 112 Cal.App.4<sup>th</sup> 509 (Disqualifying an  
individual from obtaining a foster care license).)

27 ///

1 CONCLUSION

2 Based upon the foregoing, the People respectfully request that Raymond Martinez's  
3 motion for relief pursuant to Penal Code section 1203.4 be denied.

4 Dated this 17<sup>th</sup> of April, 2016 at Modesto, California.

5 Respectfully submitted,  
6 BIRGIT FLADAGER

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8 Meghan M. Anderson  
9 Deputy District Attorney

10 MNA:KDG  
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|---|-----------------------|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):<br><b>DAVID HUFFMAN [241751]</b><br>30021 TOMAS STREET, STE 300<br>RANCHO SANTA MARGARITA, CA 92688 |                       | FOR COURT USE ONLY<br><br><b>FILED</b><br><br><b>APR 22 2016</b><br>CLERK OF THE SUPERIOR COURT<br>COUNTY OF STANISLAUS<br>BY <i>[Signature]</i><br>DEPUTY |
| TELEPHONE NO.: 949-864-6075<br>E-MAIL ADDRESS:<br>ATTORNEY FOR (Name): <b>Raymond Martinez</b>  | FAX NO.: 877-744-8312 |  |
| PEOPLE OF THE STATE OF CALIFORNIA<br>v.<br>DEFENDANT: <b>Raymond Martinez</b>   |                       | DATE OF BIRTH: 06/28/1983  |
| <b>ORDER FOR DISMISSAL</b><br>(Pen. Code, §§ 17(b), 1203.4, 1203.4a, 1203.41)   |                       | CASE NUMBER:<br>1456316  |

The court finds from the records on file in this case, and from the foregoing petition, that the petitioner (*the defendant in the above-entitled criminal action*) is eligible for the following requested relief:

- The court **GRANTS** the petition for reduction of a felony to a misdemeanor under Penal Code section 17(b) and reduces the following felony convictions to misdemeanors:
  - ☐ ALL FELONY CONVICTIONS in the above-entitled action; or
  - ☐ Only the following felony convictions in the above-entitled action (*specify charges and date of conviction*):
- The court **DENIES** the petition for reduction of a felony to a misdemeanor under Penal Code section 17(b) for:
  - ☐ ALL FELONY CONVICTIONS in the above-entitled action; or
  - ☐ Only the following felony convictions in the above-entitled action (*specify charges and date of conviction*):
- The court **GRANTS** the petition for dismissal regarding the following convictions under Penal Code ☒ § 1203.4, or ☐ § 1203.4a, or ☐ § 1203.41, and it is ordered that the pleas, verdicts, or findings of guilt be set aside and vacated and a plea of not guilty be entered and that the complaint be, and is hereby, dismissed for:
  - ☒ ALL CONVICTIONS in the above-entitled action; or
  - ☐ Only the following convictions in the above-entitled action (*specify charges and date of conviction*):
- The court **DENIES** the petition for dismissal regarding the following convictions under Penal Code ☐ § 1203.4, or ☐ § 1203.4a, or ☐ § 1203.41 for:
  - ☐ ALL CONVICTIONS in the above-entitled action; or
  - ☐ Only the following convictions in the above-entitled action (*specify charges and date of conviction*):
- If this order is granted under the provisions of Penal Code section 1203.4 or 1203.41:
  - The petitioner is required to disclose the above conviction in response to any direct question contained in any questionnaire or application for public office, or for licensure by any state or local agency, or for contracting with the California State Lottery Commission.
  - Dismissal of the conviction does not *automatically* relieve petitioner from the requirement to register as a sex offender. (See, e.g., Pen. Code, § 290.5.)
  - The petitioner may also be eligible to obtain a certificate of rehabilitation and pardon under the procedure set forth in Penal Code section 4852.01 et seq.

PEOPLE OF THE STATE OF CALIFORNIA v. DEFENDANT:  
Raymond Martinez

CASE NUMBER:  
1456316

6. If the order is granted under the provisions of either Penal Code section 1203.4, 1203.4a, or 1203.41, the petitioner is released from all penalties and disabilities resulting from the offense except as provided in Penal Code sections 29800 and 29900 (formerly sections 12021 and 12021.1) and Vehicle Code section 13555. In any subsequent prosecution of the petitioner for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The dismissal does not permit a person to own, possess, or have in his or her control a firearm if prevented by Penal Code sections 29800 or 29900 (formerly sections 12021 and 12021.1). Dismissal of a conviction does not permit a person prohibited from holding public office as a result of that conviction to hold public office.
7. In addition, as required by Penal Code section 299(f), relief under Penal Code sections 17(b), 1203.4, 1203.4a, or 1203.41 does *not* release petitioner from the separate administrative duty to provide specimens, samples, or print impressions under the DNA and Forensic Identification Database and Data Bank Act (Pen. Code, § 295 et seq.) if petitioner was found guilty by a trier of fact, not guilty by reason of insanity, or pled no contest to a qualifying offense as defined in Penal Code section 296(a).

Date:

4/22/16

  
(JUDICIAL OFFICER)



FRANK DOUGHERTY

CITING OFF / AGENCY MPDCASE NO. 1456316Nature of Hearing LMDATE 04/22/2016STATUS PSPeople vs. MARTINEZ, RAYMOND CURTISDefendant JUDGE DOUGHERTY, FRANKDept. 4Charged PC 23103.5D.A. CamiloClerk LOGAN, DEBORAH

Reporter

Bailiff

Prob. Off.

PD / CF I / CF II

Det. Atty.

Det. pres.

NOT pres.

IC

other case

ankle mon.

parole

hold

by video

SP. APP.

Ret.

Appld INTERP.

Sworn/Oath on file

Cert. of Unavail filed

Qualified/Good cause appt.

beyond time allowed

Waiver of cert. interp/Obj.

Non-cert.

Stip to Comm./Pro Tem

EDR/Taped

TIME WAIVED

10/60

TIME NOT WAIVED

10 DAYS TOLLED

Good Cause to Cont.

Arb. Waiver

PC 977 Waiver filed

NEXT APPEARANCE DATE:

TIME:

AM / PM

DEPT:

Def. ordered to appear / excused

OTHER APPEARANCE DATE:

TIME:

AM / PM

DEPT:

Def. ordered to appear / excused

OTHER APPEARANCE DATE:

TIME:

AM / PM

DEPT:

Def. ordered to appear / excused

NEXT APPEARANCE

for POC

JT

OR / Bail Rev.

Contested viol. of

Case #

Adm / Deny

Viol. of Prob. / Mand. Sup. / PRCS

Fur Arr.

Set JT

CT

Sent/Credits

Surr

DV Cal.

PC 1368 / 1370

Appt / Dbi Co.

FPT

PX

MH Crt.

Prop 36

Drug Crt

Def. Jdmt 1 2 3

Rev

VACATE

EOP

PT

RJT

TRC

Prob. Modif

Trail #

L&amp;M

LNC

NO COMPLAINT FILED

DA TO FILE BY NEXT DATE

REFER TO DA FOR AFF. / ARREST WARRANT

Assi. ned to Jud-e

Dev. for all purposes

CCP 170.6 / 170.3 filed by Judge

Per/Def. against

To be Set for VOP ARR/HRG

Adm / Deny

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